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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,071	07/21/2006	Remy Le Bec	ATOCM-356	6958

7590 11/17/2009  
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EXAMINER
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DARJI, PRITESH D

ART UNIT	PAPER NUMBER
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1793

MAIL DATE	DELIVERY MODE
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11/17/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,071	<b>Applicant(s)</b> LE BEC, REMY	
	<b>Examiner</b> PRITESH DARJI	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 8-11, 13 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Application***

Claims 8-11,13,22 are withdrawn. Applicant did not follow Rule 121 for proper claim status identifiers of these claims. It is required to follow the Rule 121 in the next response.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6,14-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1, “first stage of carbonization of olive marc” is new matter.

In claim 1, “second stage of activation... 500°C” is new matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-5,14-16,19, 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fuchang (CN 1215694).

Fuchang teaches activated carbon (charcoal) production from fruit stone (olive marc). Porous volume is 1.6 ml/g and the surface area is 2500 m<sup>2</sup>/g. See abstract. It would be expected to have bed strength of 2.14 MPa as it is admitted by applicant that olive mark has bed strength of 1.14 MPa. See instant spec, table 2. The bulk density of the coal is 0.36 g/ml. See page 5, example 3.

In claim 1, line 1 ("produced by... marc") and lines 7-9 (said physical... 500°C"), any difference imparted by product by process limitations would have been obvious to one having ordinary skill in the art at the time of the invention was made because where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicant to establish that their product is patentably distinct not the examiner to show the same process of making, see *In re Brown*, 173

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USPQ 685, In re Fessmann, 180 USPQ 324, In re Spada, 15 USPQ2d 1655, In re Fitzgerald, 205 USPQ 594 and MPEP 2113.

Fuchang does not teach iron content in the charcoal, therefore it is 0 ppm and limitation is met.

Fuchang does not teach any ash content in the charcoal, therefore it is 0 and limitation is met.

Claims 2, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchang in view of Filippova '573.

Fuchang does not teach different pore volumes as instantly claimed.

Filippova teaches active charcoal to have pore distribution volume of from 0.2 to 0.3 cm<sup>3</sup>/g micropore; from 0.2 to 0.4 cm<sup>3</sup>/g mesopore and 0.4 to 0.9 cm<sup>3</sup>/g macropore. See col. 5, lines 41-49.

It would have been obvious for a person with the ordinary skills in the art at the time of the invention to use product of Fuchang having pore distribution in view of Filippova because it would yield efficient product for treating a mixture of ethyl alcohol and water. See abstract.

Fuchang does not teach iron content in the charcoal, therefore it is 0 ppm and limitation is met.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuchang in view of Martin '550.

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Fuchang does not teach charcoal's instantly claimed mesh size.

Martin teaches adsorbent for desulfurization of sulfur dioxide, in which active charcoal with a grain size of between 1 and 3 mm is impregnated with a mixed catalyst. See column 3, lines 20-23.

It would have been obvious for a person with the ordinary skills in the art at the time of the invention to use product of Fuchang using granules of active charcoal in view of Martin because it gives larger surface area so charcoal could be used effectively.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-6 and 14-21 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRITESH DARJI whose telephone number is (571)270-5855. The examiner can normally be reached on Monday to Thursday 8:00AM EST to 6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. D./  
Examiner, Art Unit 1793

/Steven Bos/  
Primary Examiner, Art Unit 1793